

AMENDED IN ASSEMBLY APRIL 24, 2013

AMENDED IN ASSEMBLY APRIL 11, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 880

Introduced by Assembly Member Gomez

February 22, 2013

An act to add Section 230.9 to the Labor Code, to amend Sections 1088.5 and 1095 of, and to add Section 976.7 to, the Unemployment Insurance Code, and to amend Section 11025 of, and to add Article 7 (commencing with Section 14199) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to health care coverage, making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 880, as amended, Gomez. Medi-Cal program costs: large employer responsibility.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, to afford to qualifying individuals health care and related remedial or preventive services. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law, the federal Patient Protection and Affordable Care Act, requires applicable large employers, as defined, who offer full-time employees and their dependents the opportunity to enroll in minimum essential coverage and for whom one full-time employee has been certified as having enrolled in a qualified health plan for which a premium tax credit or cost-sharing reduction is allowed or paid, to pay a specified fee.

This bill would require a large employer, as defined, to pay the Employment Development Department an employer responsibility penalty for each covered employee, as defined, enrolled in Medi-Cal based on the average cost of coverage provided by large employers to their employees, including both the employer's and employee's share of the premiums, as specified. *The bill would assess interest of 10% per annum on employer responsibility penalties not paid on or before the date payment is due, as specified, and would require a large employer subject to an employer responsibility penalty to pay a penalty, as specified, for any employer responsibility penalty payment that is more than 60 days overdue.* The bill would establish the Employer Responsibility for Medi-Cal Trust Fund, which would consist of the penalty amounts *and interest* collected pursuant to these provisions and would require that the moneys in the fund be continuously appropriated to the State Department of Health Care Services to provide payment for the nonfederal share of Medi-Cal expenditures for covered employees, ~~to increase the reimbursement of Medi-Cal providers, to increase reimbursement of providers of care,~~ to provide reimbursement to county health systems, community clinics, and other entities that provide care without expectation of compensation to those Californians who do not have minimum essential coverage, as defined, and for all costs to implement the penalty provisions, as specified.

This bill would make it unlawful for a large employer to, among other things, designate an employee as an independent contractor or temporary employee, reduce an employee's hours or work, or terminate an employee if the purpose is to avoid the imposition of the penalty. A violation of those provisions would result in a penalty of 200% of the penalty amount the employer would have paid for the applicable period of time. The bill would prohibit a large employer from discharging or taking other action, as specified, against an employee who enrolls in a public health benefit program or *advanced premium tax credits through the California Health Benefit Exchange* and would make the willful refusal of the employer to rehire, promote, or otherwise restore the employee or former employee a misdemeanor. *The bill would authorize an employee to file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations if the employee is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee*

exercised his or her rights under these provisions. By establishing a new crime, this bill would impose a state-mandated local program.

Existing law requires employers to file specified information with the Employment Development Department, upon hiring an employee, that may be used by specified state departments, exchanges, and boards, and county departments and agencies for specified purposes, including verifying or determining the eligibility of an applicant for, or a recipient of, state health subsidy programs, as specified, if the verification or determination is directly connected with, and limited to, the administration of the referenced state health subsidy programs.

This bill would expand these provisions to allow the information to be used if the verification or determination is directly connected with, and limited to, the administration or funding of the referenced state health subsidy programs.

Existing law authorizes the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes and to require reimbursement for all direct costs incurred in providing that information. Existing law provides that this information includes information provided to enable federal, state, or local government departments or agencies, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services if the verification or determination is directly connected with, and limited to, the administration of public social services.

This bill would expand these provisions to allow the information to be used if the verification or determination is directly connected with, and limited to, the administration or funding of the public social services.

Existing law also authorizes the director to permit the use of information in his or her possession and to require reimbursement for all direct costs incurred in providing that information to enable specified state departments, exchanges, and boards, and county departments and agencies, to obtain information regarding employee wages, California employer names and account numbers, employer reports of wages and number of employees, and disability insurance and unemployment insurance claim information, for specified purposes.

This bill would authorize the director to provide information to enable these entities to obtain information regarding state employer identification numbers.

Existing law requires the State Department of Social Services and the State Department of Health Services to make use of the records of

the Franchise Tax Board to match unearned income against reported income of applicants for, and recipients of, aid or public social services.

This bill would also require each department to use these records to match social security numbers of applicants for, and recipients of, aid or public services with their employer's state employer identification number, which shall then be forwarded to the appropriate county welfare department or other appropriate state departments for use, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Working Californians should have affordable, comprehensive
4 health insurance coverage.

5 (2) Most working Californians obtain their health insurance
6 coverage through their employment, but some working Californians
7 are covered by Medi-Cal and, commencing in 2014, some will be
8 covered through Covered California, the California Health Benefit
9 Exchange (Exchange).

10 (3) In 2012, more than 7,000,000 Californians lacked health
11 insurance coverage at some time in the year. The federal Patient
12 Protection and Affordable Care Act (PPACA) is expected to reduce
13 the number of Californians without health insurance coverage by
14 providing coverage through changes to the Medi-Cal program and
15 the creation of the Exchange.

16 (4) PPACA sets a standard for what constitutes affordable,
17 employment-based coverage and imposes penalties on any large
18 employer whose full-time, nonseasonal employees receive coverage
19 through the Exchange. Federal law imposes no penalty on large
20 employers whose employees receive coverage through the
21 taxpayer-funded Medi-Cal program.

22 (5) Employers who fail to provide affordable coverage to
23 low-wage workers who are covered by Medi-Cal shift the cost of

1 health care coverage from the employer to the taxpayer. Employers
2 can avoid the employer responsibility penalty of PPACA by
3 reducing wages, hours worked, or both, so that workers are no
4 longer full-time, full-year employees within the meaning of
5 PPACA. Workers who face low wages, work part time, or both,
6 are too often eligible for taxpayer-funded Medi-Cal instead of
7 affordable, employer-based coverage.

8 (6) Persons who are covered by health insurance have better
9 health outcomes than those who lack coverage. Persons without
10 health insurance coverage are more likely to be in poor health,
11 more likely to miss needed medications and treatment, and more
12 likely to have chronic conditions that are not properly managed.

13 (7) Persons without health insurance coverage are at risk of
14 financial ruin. Medical debt is the second most common cause of
15 personal bankruptcy in the United States.

16 (8) California provides health insurance coverage to low-income
17 workers through the Medi-Cal program. The taxpaying public pays
18 the cost of coverage for those working people who are not provided
19 health care coverage through employment. The number of working
20 people whose coverage is provided through the Medi-Cal program
21 is expected to increase because of PPACA.

22 (9) Taxpayers, through state and local governments, fund county
23 hospitals and clinics, community clinics, and other safety net
24 providers that provide care to those working people whose
25 employers fail to provide affordable health care coverage to their
26 employees as well as to other uninsured persons.

27 (10) Controlling health care costs can be more readily achieved
28 if a greater share of working people and their families have health
29 benefits so that cost shifting is minimized.

30 (11) The social and economic burden created by the lack of
31 health care coverage for some workers and the coverage of other
32 workers through the Medi-Cal program creates a burden on other
33 employers, the state, affected workers, and the families of affected
34 workers who suffer ill health and risk financial ruin.

35 (b) It is therefore the intent of the Legislature to do all of the
36 following:

37 (1) Ensure that large employers pay a fair share penalty for
38 health coverage received by their employees through the Medi-Cal
39 program and to base that penalty on the cost of coverage provided
40 by other large employers to their employees.

(2) Encourage the provision of affordable employer-based coverage to low-wage employees who would otherwise be eligible for covered by the Medi-Cal program and to discourage employers from reducing hours, wages, or both in order to avoid the employer responsibility penalty of PPACA by extending an employer responsibility penalty to employers with employees covered by the Medi-Cal program.

(3) Ensure that employees who receive coverage through the Medi-Cal program are protected from any possible retaliation by their employer for seeking or obtaining that coverage.

(4) Pay the nonfederal share of costs for care provided to working adults who lack affordable employer coverage and who receive coverage through Medi-Cal, improve reimbursement for the Medi-Cal providers who care for these workers, and support the safety net of county hospitals and community clinics that provide care for the remaining uninsured adult workers.

SEC. 2. Section 230.9 is added to the Labor Code, to read:

230.9. (a) It shall be unlawful for a large employer, as defined in Section 14199.1 of the Welfare and Institutions Code, to designate an employee as an independent contractor or temporary employee, reduce an employee's hours of work, or terminate an employee if the purpose of the action is to avoid the employer's obligations under Article 7 (commencing with Section 14199) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

(b) A large employer shall not request or otherwise seek to obtain information concerning income, family income, or other eligibility requirements for public health benefit programs regarding an employee, other than that information about the employee's employment status otherwise known to the employer consistent with state and federal law and regulation.

(c) A large employer shall not require as a condition of employment that an employee not enroll in or disenroll from a public health benefit program, including, but not limited to, the Medi-Cal program, or *advanced premium tax credits through the California Health Benefit Exchange. A large employer shall not encourage or discourage enrollment in a public health benefit program for which an employee is otherwise eligible but may provide information on the programs as otherwise provided by state or federal law.*

1 (d) ~~An~~ A large employer may not discharge or in any manner
2 discriminate or retaliate against an employee who enrolls in a
3 public health benefit program, including, but not limited to, the
4 Medi-Cal program, or *advanced premium tax credits through the*
5 California Health Benefit Exchange.

6 (e) Any employee who is discharged, threatened with discharge,
7 demoted, suspended, or in any other manner discriminated or
8 retaliated against in the terms and conditions of employment by
9 his or her employer because the employee has enrolled in a public
10 health benefit program or *advanced premium tax credits through*
11 the California Health Benefit Exchange shall be entitled to
12 reinstatement and reimbursement for lost wages and work benefits
13 caused by the acts of the employer.

14 (f) A large employer who willfully refuses to rehire, promote,
15 or otherwise restore an employee or former employee described
16 in this section who has been determined to be eligible for rehiring
17 or promotion by a grievance procedure or hearing authorized by
18 law is guilty of a misdemeanor.

19 (g) An employer who violates this section shall be charged a
20 penalty of 200 percent of the amount of any ~~fee~~ *penalty* that would
21 have otherwise been paid by the employer for the period for
22 covered employees under Article 7 (commencing with Section
23 14199) of Chapter 7 of Part 3 of Division 9 *of the Welfare and*
24 *Institutions Code*.

25 (h) *An employee who is discharged, threatened with discharge,*
26 *demoted, suspended, or in any other manner discriminated or*
27 *retaliated against in the terms and conditions of employment by*
28 *his or her employer because the employee has exercised his or her*
29 *rights as set forth in subdivision (a), (b), (c), or (d) may file a*
30 *complaint with the Division of Labor Standards Enforcement of*
31 *the Department of Industrial Relations pursuant to Section 98.7.*

32 SEC. 3. Section 976.7 is added to the Unemployment Insurance
33 Code, to read:

34 976.7. (a) In addition to other contributions required by this
35 division and consistent with the requirements of Article 7
36 (commencing with Section 14199) of Chapter 7 of Part 3 of
37 Division 9 of the Welfare and Institutions Code, a large employer,
38 as defined in Section 14199.1 of the Welfare and Institution Code,
39 shall pay to the department, for deposit into the Employer
40 Responsibility for Medi-Cal Trust Fund, any penalties imposed

1 pursuant to Article 7 (commencing with Section 14199) of Chapter
2 7 of Part 3 of Division 9 of the Welfare and Institutions Code. The
3 penalty shall be collected in the same manner and at the same time
4 as any contributions required under Sections 976 and 1088.

5 (b) A large employer shall provide information to all newly
6 hired and existing employees regarding the availability of Medi-Cal
7 coverage for low-income employees, including the availability of
8 Medi-Cal premium assistance as well as Medi-Cal coverage for
9 persons whose income is less than the modified adjusted gross
10 income threshold established for the Medi-Cal program pursuant
11 to the federal Patient Protection and Affordable Care Act (Public
12 Law 111-148), as amended by the federal Health Care and
13 Education Reconciliation Act of 2010 (Public Law 111-152). The
14 department, in consultation with the State Department of Health
15 Care Services, shall develop a simple, uniform notice containing
16 that information.

17 (c) *The department shall annually send a notice to each large*
18 *employer subject to an employer responsibility penalty under*
19 *Article 7 (commencing with Section 14199) of Chapter 7 of Part*
20 *3 of Division 9 of the Welfare and Institutions Code of the amount*
21 *of any employer responsibility penalties imposed and the date on*
22 *which payment is due.*

23 (d) *The employer responsibility penalty shall be paid by each*
24 *large employer subject to the penalty to the department for deposit*
25 *into the Employer Responsibility for Medi-Cal Trust Fund.*

26 (e) *Interest shall be assessed on employer responsibility*
27 *penalties not paid on or before payment is due at 10 percent per*
28 *annum. Interest shall begin to accrue the day after the date the*
29 *payment is due and shall be deposited in the Employer*
30 *Responsibility for Medi-Cal Trust Fund.*

31 (f) *If an employer responsibility penalty payment is more than*
32 *60 days overdue, a penalty equal to the interest charged as*
33 *described in subdivision (e) shall be assessed and due for each*
34 *month, or part thereof, that the employer responsibility penalty*
35 *payment is not received after 60 days. Penalties collected under*
36 *this subdivision shall be deposited in the Employer Responsibility*
37 *for Medi-Cal Trust Fund.*

38 SEC. 4. Section 1088.5 of the Unemployment Insurance Code
39 is amended to read:

1 1088.5. (a) In addition to information reported in accordance
2 with Section 1088, effective July 1, 1998, each employer shall file,
3 with the department, the information provided for in subdivision
4 (b) on new employees.

5 (b) Each employer shall report the hiring of any employee who
6 works in this state and to whom the employer anticipates paying
7 wages, and also shall report the hiring of any employee who
8 previously worked for the employer but had been separated from
9 that prior employment for at least 60 consecutive days.

10 (c) (1) This section shall not apply to any department, agency,
11 or instrumentality of the United States.

12 (2) State agency employers shall not be required to report
13 employees performing intelligence or counterintelligence functions,
14 if the head of the agency has determined that reporting pursuant
15 to this section would endanger the safety of the employee or
16 compromise an ongoing investigation or intelligence mission.

17 (d) (1) Employers shall submit a report as described in
18 paragraph (4) within 20 days of hiring any employee whom the
19 employer is required to report pursuant to this section.

20 (2) Notwithstanding subdivision (a), employers transmitting
21 reports magnetically or electronically shall submit the report by
22 two monthly transmissions not less than 12 days and not more
23 than 16 days apart.

24 (3) For purposes of this section, an employer that has employees
25 in two or more states and that transmits reports magnetically or
26 electronically may designate one state in which the employer has
27 employees to which the employer will transmit the report described
28 in paragraph (4). Any employer that transmits reports pursuant to
29 this paragraph shall notify the Secretary of Health and Human
30 Services in writing as to which state the employer designates for
31 the purpose of sending reports.

32 (4) The report shall contain the following:

33 (A) The name, address, and social security number of the
34 employees.

35 (B) The employer's name, address, state employer identification
36 number (if one has been issued), and identifying number assigned
37 to the employer under Section 6109 of the Internal Revenue Code
38 of 1986.

39 (C) The first date the employee worked.

(5) Employers may report pursuant to this section by submitting a copy of the employee's W-4 form, a form provided by the department, or any other hiring document transmitted by first-class mail, magnetically, or electronically.

(e) For each failure to report the hiring of an employee, as required and within the time required by this section, unless the failure is due to good cause, the department may assess a penalty of twenty-four dollars (\$24), or four hundred ninety dollars (\$490) if the failure is the result of conspiracy between the employer and employee not to supply the required report or to supply a false or incomplete report.

(f) (1) On and after January 1, 2013, and before January 1, 2019, information collected pursuant to this section may be used for the following purposes:

(A) Administration of this code, including, but not limited to, providing employer or employee information to participating members of the Joint Enforcement Strike Force on the Underground Economy pursuant to Section 329 for the purposes of auditing, investigating, and prosecuting violations of tax and cash-pay reporting laws.

(B) Locating individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

(C) Administration of employment security and workers' compensation programs.

(D) Providing employer or employee information to the Franchise Tax Board and the State Board of Equalization for the purpose of tax or fee enforcement.

(E) Verification of eligibility of applicants for, or recipients of, the public assistance programs listed in Section 1320b-7(b) of Title 42 of the United States Code.

(F) Providing employer or employee information to the Contractors' State License Board and the State Compensation Insurance Fund for the purpose of workers' compensation payroll reporting.

(G) Providing employer or employee information to the State Department of Health Care Services, the California Health Benefit Exchange, the Managed Risk Medical Insurance Board, and county departments and agencies for the purpose of:

1 (i) Verifying or determining the eligibility of an applicant for,
2 or a recipient of, state health subsidy programs, limited to the
3 Medi-Cal program, provided pursuant to Chapter 7 (commencing
4 with Section 14000) of Part 3 of Division 9 of the Welfare and
5 Institutions Code, the Healthy Families Program, provided pursuant
6 to Part 6.2 (commencing with Section 12693) of Division 2 of the
7 Insurance Code, and the Access for Infants and Mothers Program,
8 provided pursuant to Part 6.3 (commencing with Section 12695)
9 of Division 2 of the Insurance Code, where the verification or
10 determination is directly connected with, and limited to, the
11 administration and funding of the state health subsidy programs
12 referenced in this clause.

13 (ii) Verifying or determining the eligibility of an applicant for,
14 or a recipient of, federal subsidies offered through the California
15 Health Benefit Exchange, provided pursuant to Title 22
16 (commencing with Section 100500) of the Government Code,
17 including federal tax credits and cost-sharing assistance pursuant
18 to the federal Patient Protection and Affordable Care Act, (Public
19 Law 111-148), as amended by the federal Health Care and
20 Education Reconciliation Act of 2010 (Public Law 111-152), where
21 the verification or determination is directly connected with, and
22 limited to, the administration of the California Health Benefit
23 Exchange.

24 (iii) Verifying or determining the eligibility of employees and
25 employers for health coverage through the Small Business Health
26 Options Program, provided pursuant to Section 100502 of the
27 Government Code, where the verification or determination is
28 directly connected with, and limited to, the administration of the
29 Small Business Health Options Program.

30 (2) On and after January 1, 2019, information collected pursuant
31 to this section may be used for the following purposes:

32 (A) Administration of this code.

33 (B) Locating individuals for purposes of establishing paternity
34 and establishing, modifying, and enforcing child support
35 obligations.

36 (C) Administration of employment security and workers'
37 compensation programs.

38 (D) Providing employer or employee information to the
39 Franchise Tax Board and to the State Board of Equalization for
40 the purposes of tax or fee enforcement.

1 (E) Verification of eligibility of applicants for, or recipients of,
2 the public assistance programs listed in Section 1320b-7(b) of Title
3 42 of the United States Code.

4 (F) Providing employer or employee information to the State
5 Department of Health Care Services, the California Health Benefit
6 Exchange, the Managed Risk Medical Insurance Board, and county
7 departments and agencies for the purpose of:

8 (i) Verifying or determining the eligibility of an applicant for,
9 or a recipient of, state health subsidy programs, limited to the
10 Medi-Cal program, provided pursuant to Chapter 7 (commencing
11 with Section 14000) of Part 3 of Division 9 of the Welfare and
12 Institutions Code, the Healthy Families Program, provided pursuant
13 to Part 6.2 (commencing with Section 12693) of Division 2 of the
14 Insurance Code, and the Access for Infants and Mothers Program,
15 provided pursuant to Part 6.3 (commencing with Section 12695)
16 of Division 2 of the Insurance Code, where the verification or
17 determination is directly connected with, and limited to, the
18 administration and funding of the state health subsidy programs
19 referenced in this clause.

20 (ii) Verifying or determining the eligibility of an applicant for,
21 or a recipient of, federal subsidies offered through the California
22 Health Benefit Exchange, provided pursuant to Title 22
23 (commencing with Section 100500) of the Government Code,
24 including federal tax credits and cost-sharing assistance pursuant
25 to the federal Patient Protection and Affordable Care Act, (Public
26 Law 111-148), as amended by the federal Health Care and
27 Education Reconciliation Act of 2010 (Public Law 111-152), where
28 the verification or determination is directly connected with, and
29 limited to, the administration of the California Health Benefit
30 Exchange.

31 (iii) Verifying or determining the eligibility of employees and
32 employers for health coverage through the Small Business Health
33 Options Program, provided pursuant to Section 100502 of the
34 Government Code, where the verification or determination is
35 directly connected with, and limited to, the administration of the
36 Small Business Health Options Program.

37 (g) For purposes of this section, “employer” includes a labor
38 union hiring hall.

39 (h) This section shall become operative on July 1, 1998.

1 SEC. 5. Section 1095 of the Unemployment Insurance Code
2 is amended to read:

3 1095. The director shall permit the use of any information in
4 his or her possession to the extent necessary for any of the
5 following purposes and may require reimbursement for all direct
6 costs incurred in providing any and all information specified in
7 this section, except information specified in subdivisions (a) to
8 (e), inclusive:

9 (a) To enable the director or his or her representative to carry
10 out his or her responsibilities under this code.

11 (b) To properly present a claim for benefits.

12 (c) To acquaint a worker or his or her authorized agent with his
13 or her existing or prospective right to benefits.

14 (d) To furnish an employer or his or her authorized agent with
15 information to enable him or her to fully discharge his or her
16 obligations or safeguard his or her rights under this division or
17 Division 3 (commencing with Section 9000).

18 (e) To enable an employer to receive a reduction in contribution
19 rate.

20 (f) To enable federal, state, or local government departments
21 or agencies, subject to federal law, to verify or determine the
22 eligibility or entitlement of an applicant for, or a recipient of, public
23 social services provided pursuant to Division 9 (commencing with
24 Section 10000) of the Welfare and Institutions Code, or Part A of
25 Title IV of the Social Security Act, where the verification or
26 determination is directly connected with, and limited to, the
27 administration and funding of public social services.

28 (g) To enable county administrators of general relief or
29 assistance, or their representatives, to determine entitlement to
30 locally provided general relief or assistance, where the
31 determination is directly connected with, and limited to, the
32 administration of general relief or assistance.

33 (h) To enable state or local governmental departments or
34 agencies to seek criminal, civil, or administrative remedies in
35 connection with the unlawful application for, or receipt of, relief
36 provided under Division 9 (commencing with Section 10000) of
37 the Welfare and Institutions Code or to enable the collection of
38 expenditures for medical assistance services pursuant to Part 5
39 (commencing with Section 17000) of Division 9 of the Welfare
40 and Institutions Code.

(i) To provide any law enforcement agency with the name, address, telephone number, birth date, social security number, physical description, and names and addresses of present and past employers, of any victim, suspect, missing person, potential witness, or person for whom a felony arrest warrant has been issued, when a request for this information is made by any investigator or peace officer as defined by Sections 830.1 and 830.2 of the Penal Code, or by any federal law enforcement officer to whom the Attorney General has delegated authority to enforce federal search warrants, as defined under Sections 60.2 and 60.3 of Title 28 of the Code of Federal Regulations, as amended, and when the requesting officer has been designated by the head of the law enforcement agency and requests this information in the course of and as a part of an investigation into the commission of a crime when there is a reasonable suspicion that the crime is a felony and that the information would lead to relevant evidence. The information provided pursuant to this subdivision shall be provided to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records. Any person who receives any information under this subdivision shall make a written report of the information to the law enforcement agency that employs him or her, for filing under the normal procedures of that agency.

(1) This subdivision shall not be construed to authorize the release to any law enforcement agency of a general list identifying individuals applying for or receiving benefits.

(2) The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(3) This subdivision shall not be construed as limiting the information provided to law enforcement agencies to that pertaining only to applicants for, or recipients of, benefits.

(4) The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant or in the event of an investigation by a law enforcement agency into the commission of a felony.

(j) To provide public employee retirement systems in California with information relating to the earnings of any person who has

1 applied for or is receiving a disability income, disability allowance,
2 or disability retirement allowance, from a public employee
3 retirement system. The earnings information shall be released only
4 upon written request from the governing board specifying that the
5 person has applied for or is receiving a disability allowance or
6 disability retirement allowance from its retirement system. The
7 request may be made by the chief executive officer of the system
8 or by an employee of the system so authorized and identified by
9 name and title by the chief executive officer in writing.

10 (k) To enable the Division of Labor Standards Enforcement in
11 the Department of Industrial Relations to seek criminal, civil, or
12 administrative remedies in connection with the failure to pay, or
13 the unlawful payment of, wages pursuant to Chapter 1
14 (commencing with Section 200) of Part 1 of Division 2 of, and
15 Chapter 1 (commencing with Section 1720) of Part 7 of Division
16 2 of, the Labor Code.

17 (l) To enable federal, state, or local governmental departments
18 or agencies to administer child support enforcement programs
19 under Title IV of the federal Social Security Act (42 U.S.C. Sec.
20 651 et seq.).

21 (m) To provide federal, state, or local governmental departments
22 or agencies with wage and claim information in its possession that
23 will assist those departments and agencies in the administration
24 of the Victims of Crime Program or in the location of victims of
25 crime who, by state mandate or court order, are entitled to
26 restitution that has been or can be recovered.

27 (n) To provide federal, state, or local governmental departments
28 or agencies with information concerning any individuals who are
29 or have been:

30 (1) Directed by state mandate or court order to pay restitution,
31 fines, penalties, assessments, or fees as a result of a violation of
32 law.

33 (2) Delinquent or in default on guaranteed student loans or who
34 owe repayment of funds received through other financial assistance
35 programs administered by those agencies. The information released
36 by the director for the purposes of this paragraph shall not include
37 unemployment insurance benefit information.

38 (o) To provide an authorized governmental agency with any or
39 all relevant information that relates to any specific workers'
40 compensation insurance fraud investigation. The information shall

1 be provided to the extent permitted by federal law and regulations.
2 For the purposes of this subdivision, “authorized governmental
3 agency” means the district attorney of any county, the office of
4 the Attorney General, the Contractors’ State License Board, the
5 Department of Industrial Relations, and the Department of
6 Insurance. An authorized governmental agency may disclose this
7 information to the State Bar, the Medical Board of California, or
8 any other licensing board or department whose licensee is the
9 subject of a workers’ compensation insurance fraud investigation.
10 This subdivision shall not prevent any authorized governmental
11 agency from reporting to any board or department the suspected
12 misconduct of any licensee of that body.

13 (p) To enable the Director of the Bureau for Private
14 Postsecondary Education, or his or her representatives, to access
15 unemployment insurance quarterly wage data on a case-by-case
16 basis to verify information on school administrators, school staff,
17 and students provided by those schools who are being investigated
18 for possible violations of Chapter 8 (commencing with Section
19 94800) of Part 59 of Division 10 of Title 3 of the Education Code.

20 (q) To provide employment tax information to the tax officials
21 of Mexico, if a reciprocal agreement exists. For purposes of this
22 subdivision, “reciprocal agreement” means a formal agreement to
23 exchange information between national taxing officials of Mexico
24 and taxing authorities of the State Board of Equalization, the
25 Franchise Tax Board, and the Employment Development
26 Department. Furthermore, the reciprocal agreement shall be limited
27 to the exchange of information that is essential for tax
28 administration purposes only. Taxing authorities of the State of
29 California shall be granted tax information only on California
30 residents. Taxing authorities of Mexico shall be granted tax
31 information only on Mexican nationals.

32 (r) To enable city and county planning agencies to develop
33 economic forecasts for planning purposes. The information shall
34 be limited to businesses within the jurisdiction of the city or county
35 whose planning agency is requesting the information, and shall
36 not include information regarding individual employees.

37 (s) To provide the State Department of Developmental Services
38 with wage and employer information that will assist in the
39 collection of moneys owed by the recipient, parent, or any other
40 legally liable individual for services and supports provided pursuant

1 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
2 and Chapter 2 (commencing with Section 7200) and Chapter 3
3 (commencing with Section 7500) of Division 7 of, the Welfare
4 and Institutions Code.

5 (t) To provide the State Board of Equalization with employment
6 tax information that will assist in the administration of tax
7 programs. The information shall be limited to the exchange of
8 employment tax information essential for tax administration
9 purposes to the extent permitted by federal law and regulations.

10 (u) Nothing in this section shall be construed to authorize or
11 permit the use of information obtained in the administration of this
12 code by any private collection agency.

13 (v) The disclosure of the name and address of an individual or
14 business entity that was issued an assessment that included
15 penalties under Section 1128 or 1128.1 shall not be in violation
16 of Section 1094 if the assessment is final. The disclosure may also
17 include any of the following:

18 (1) The total amount of the assessment.

19 (2) The amount of the penalty imposed under Section 1128 or
20 1128.1 that is included in the assessment.

21 (3) The facts that resulted in the charging of the penalty under
22 Section 1128 or 1128.1.

23 (w) To enable the Contractors' State License Board to verify
24 the employment history of an individual applying for licensure
25 pursuant to Section 7068 of the Business and Professions Code.

26 (x) To provide any peace officer with the Division of
27 Investigation in the Department of Consumer Affairs information
28 pursuant to subdivision (i) when the requesting peace officer has
29 been designated by the Chief of the Division of Investigation and
30 requests this information in the course of and as part of an
31 investigation into the commission of a crime or other unlawful act
32 when there is reasonable suspicion to believe that the crime or act
33 may be connected to the information requested and would lead to
34 relevant information regarding the crime or unlawful act.

35 (y) To enable the Labor Commissioner of the Division of Labor
36 Standards Enforcement in the Department of Industrial Relations
37 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully
38 uninsured employers. The information shall be provided to the
39 extent permitted by federal law and regulations.

1 (z) To enable the Chancellor of the California Community
2 Colleges, in accordance with the requirements of Section 84754.5
3 of the Education Code, to obtain quarterly wage data, commencing
4 January 1, 1993, on students who have attended one or more
5 community colleges, to assess the impact of education on the
6 employment and earnings of students, to conduct the annual
7 evaluation of district-level and individual college performance in
8 achieving priority educational outcomes, and to submit the required
9 reports to the Legislature and the Governor. The information shall
10 be provided to the extent permitted by federal statutes and
11 regulations.

12 (aa) To enable the Public Employees' Retirement System to
13 seek criminal, civil, or administrative remedies in connection with
14 the unlawful application for, or receipt of, benefits provided under
15 Part 3 (commencing with Section 20000) of Division 5 of Title 2
16 of the Government Code.

17 (ab) To enable the State Department of Education, the University
18 of California, the California State University, and the Chancellor
19 of the California Community Colleges, pursuant to the
20 requirements prescribed by the federal American Recovery and
21 Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly
22 wage data, commencing July 1, 2010, on students who have
23 attended their respective systems to assess the impact of education
24 on the employment and earnings of those students, to conduct the
25 annual analysis of district-level and individual district or
26 postsecondary education system performance in achieving priority
27 educational outcomes, and to submit the required reports to the
28 Legislature and the Governor. The information shall be provided
29 to the extent permitted by federal statutes and regulations.

30 (ac) To provide the Agricultural Labor Relations Board with
31 employee, wage, and employer information, for use in the
32 investigation or enforcement of the
33 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations
34 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division
35 2 of the Labor Code). The information shall be provided to the
36 extent permitted by federal statutes and regulations.

37 (ad) (1) To enable the State Department of Health Care
38 Services, the California Health Benefit Exchange, the Managed
39 Risk Medical Insurance Board, and county departments and
40 agencies to obtain information regarding employee wages,

1 California employer names and state employer identification
2 numbers, employer reports of wages and number of employees,
3 and disability insurance and unemployment insurance claim
4 information, for the purpose of:

5 (A) Verifying or determining the eligibility of an applicant for,
6 or a recipient of, state health subsidy programs, limited to the
7 Medi-Cal program, provided pursuant to Chapter 7 (commencing
8 with Section 14000) of Part 3 of Division 9 of the Welfare and
9 Institutions Code, the Healthy Families Program, provided pursuant
10 to Part 6.2 (commencing with Section 12693) of Division 2 of the
11 Insurance Code, and the Access for Infants and Mothers Program,
12 provided pursuant to Part 6.3 (commencing with Section 12695)
13 of Division 2 of the Insurance Code, where the verification or
14 determination is directly connected with, and limited to, the
15 administration and funding of the state health subsidy programs
16 referenced in this subparagraph.

17 (B) Verifying or determining the eligibility of an applicant for,
18 or a recipient of, federal subsidies offered through the California
19 Health Benefit Exchange, provided pursuant to Title 22
20 (commencing with Section 100500) of the Government Code,
21 including federal tax credits and cost-sharing assistance pursuant
22 to the federal Patient Protection and Affordable Care Act (Public
23 Law 111-148), as amended by the federal Health Care and
24 Education Reconciliation Act of 2010 (Public Law 111-152), where
25 the verification or determination is directly connected with, and
26 limited to, the administration of the California Health Benefit
27 Exchange.

28 (C) Verifying or determining the eligibility of employees and
29 employers for health coverage through the Small Business Health
30 Options Program, provided pursuant to Section 100502 of the
31 Government Code, where the verification or determination is
32 directly connected with, and limited to, the administration of the
33 Small Business Health Options Program.

34 (2) The information provided under this subdivision shall be
35 subject to the requirements of, and provided to the extent permitted
36 by, federal law and regulations, including Part 603 of Title 20 of
37 the Code of Federal Regulations.

38 SEC. 6. Section 11025 of the Welfare and Institutions Code is
39 amended to read:

11025. (a) The State Department of Social Services and the State Department of Health Services shall utilize the records of the Franchise Tax Board to match unearned income against reported income of applicants for and recipients of aid or public social services and to match social security numbers of applicants for and recipients of aid or public services with their employer's state employer identification number under this division. The matching information shall then be forwarded to the appropriate county welfare department or other appropriate state departments for use in determining the eligibility of, and proper grant amount for, applicants for, and recipients of, aid or public social services under this division. Any and all documents and records that result from the matching of records with the Franchise Tax Board shall be subject to the confidentiality requirements of Section 10850.

(b) This section shall not be construed to supersede the requirements and protections in the California Right to Financial Privacy Act under Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code in obtaining information in possession of any financial institution.

(c) This section shall be implemented only to the extent it is funded in the annual Budget Act.

SEC. 7. Article 7 (commencing with Section 14199) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 7. Employer Responsibility for Cost of Employees
Covered under the Medi-Cal program

14199. This article shall be known, and may be cited, as the Employer Responsibility for Medi-Cal Cost of Employees Act of 2013.

14199.1. For purposes of this article, the following definitions shall apply:

(a) (1) "Covered employee" means an individual who meets all of the following:

(A) He or she is an employee of a large employer.

(B) He or she is enrolled in Medi-Cal on the basis of his or her modified adjusted gross income in accordance with PPACA.

(C) He or she is not a person who is enrolled in Medi-Cal by reason of disability or being over 65 years of age.

1 (D) He or she works more than eight hours per week for the
2 employer.

3 (2) A “covered employee” includes a leased employee or other
4 individual under the direction and control of the employer.

5 (b) “Department” means the State Department of Health Care
6 Services.

7 (c) “Employer” means an employing unit as defined in Section
8 135 of the Unemployment Insurance Code. For purposes of this
9 article, an employer includes all of the members of a controlled
10 group of corporations. A “controlled group of corporations” means
11 controlled group of corporations as defined in Section 1563(a) of
12 the Internal Revenue Code, except that “more than 50 percent”
13 shall be substituted for “at least 80 percent” each place it appears
14 in Section 1563(a)(1) of the Internal Revenue Code, and the
15 determination shall be made without regard to Sections 1563(a)(4)
16 and 1563(e)(3)(C) of the Internal Revenue Code.

17 (d) “Fund” means a the Employer Responsibility for Medi-Cal
18 Trust Fund, established pursuant to Section 14199.12.

19 (e) (1) “Large employer” means an employer employing for
20 wages or salary 500 or more persons to work in this state.

21 (2) For purposes of this article only, “large employer” shall not
22 include a state, city, county, city and county, district or any other
23 governmental employer.

24 (3) For purposes of this article only, “large employer” shall
25 include employers who are nonprofit entities for purposes of state
26 or federal corporate income taxes, for purposes of state or local
27 property taxes, or for any other tax purpose.

28 (f) “PPACA” means the federal Patient Protection and
29 Affordable Care Act (Public Law 111-148), as amended by the
30 federal Health Care and Education Reconciliation Act of 2010
31 (Public Law 111-152).

32 (g) “Wages” means wages as defined in subdivision (a) of
33 Section 200 of the Labor Code paid directly to an individual by
34 his or her employer.

35 14199.8. (a) Except as otherwise provided in this article, every
36 large employer shall pay an employer responsibility penalty *to the*
37 *Employment Development Department*, as determined pursuant to
38 Section 14199.9.

1 (b) An employer responsibility penalty shall not be incurred by
2 a state, county, city, city and county, district, or any other
3 governmental entity.

4 (c) A large employer shall pay an employer responsibility
5 penalty for each covered employee as defined in this article.

6 14199.9. (a) (1) The amount of the employer responsibility
7 penalty shall be based on the average cost of health care coverage
8 provided by large employers to their employees, including both
9 the employer and employee share of *the* premium.

10 (2) The amount of the employer responsibility penalty shall be
11 set at 110 percent of the average cost of coverage as determined
12 pursuant to subdivision (b) to cover the necessary costs of
13 administration incurred by the State Department of Health Care
14 Services, the Employment Development Department, the Franchise
15 Tax Board, or any other state government agency.

16 (3) *The amount of the employer responsibility penalty shall be*
17 *adjusted annually to reflect changes in the average cost of coverage*
18 *provided by large employers to their employees.*

19 (b) (1) The average cost of health care coverage provided by
20 large employers shall be determined using the information provided
21 by health plans pursuant to Section 1385.04 of the Health and
22 Safety Code and by health insurers pursuant to Section 10181.4
23 of the Insurance Code.

24 (2) If information about the average cost of large employer
25 health care coverage is not provided by the department that
26 regulates the majority of large employer plans or policies, the
27 average cost shall be determined using a statistically valid,
28 scientifically reliable survey of large employers, which may be
29 conducted by a nonprofit foundation established as a result of the
30 conversion of a health care service plan from a nonprofit to
31 for-profit tax status.

32 ~~(e) The employer responsibility penalty shall be determined by~~
33 ~~multiplying the amount described in paragraph (2) of subdivision~~
34 ~~(a) by a fraction, the numerator of which is the employer's total~~
35 ~~annual wage payments to all covered employees and the~~
36 ~~denominator of which is the employer's total annual payroll.~~

37 ~~(d) The department shall obtain the information necessary to~~
38 ~~determine this penalty from the Employment Development~~
39 ~~Department.~~

1 (c) (1) *The employer responsibility penalty shall be determined*
2 *by multiplying the employer's total annual wage payments to all*
3 *covered employees by a fraction, with the numerator specified in*
4 *paragraph (2) and the denominator specified in paragraph (3).*
5 *The department shall obtain the wage and hour information*
6 *necessary to compute this paragraph from the Employment*
7 *Development Department.*

8 (2) *The numerator of the fraction described in paragraph (1)*
9 *shall be the amount described in paragraph (2) of subdivision (a)*
10 *multiplied by the share of a 40-hour work week that the average*
11 *California employee working for a large employer and enrolled*
12 *in the Medi-Cal program works per week. The department shall*
13 *obtain the data necessary to compute this paragraph from the*
14 *California Current Population Survey.*

15 (3) *The denominator of the fraction described in paragraph (1)*
16 *shall be the average annual wage of California employees that*
17 *work for large employers and that are enrolled in the Medi-Cal*
18 *program. The department shall, in 2014, obtain the wage*
19 *information necessary to compute this paragraph from the*
20 *California Current Population Survey, and shall, thereafter, obtain*
21 *the information from wage and enrollment data from the*
22 *Employment Development Department for the prior year.*

23 (4) *The employer responsibility penalty shall be adjusted*
24 *annually based on wage and enrollment data from the prior year.*

25 14199.10. The department shall provide notice to the
26 Employment Development Department of the amount of the
27 employer responsibility penalty in a time and manner that permits
28 the Employment Development Department to provide notice to
29 all large employers of the estimated penalty for the budget year
30 pursuant to Section 976.7 of the Unemployment Insurance Code.

31 14199.11. All moneys collected pursuant to this article shall
32 be deposited in the Employer Responsibility for Medi-Cal Trust
33 Fund created pursuant to Section 14199.12.

34 14199.12. (a) The Employer Responsibility for Medi-Cal Trust
35 Fund is hereby created in the State Treasury.

36 (b) The fund shall consist of moneys collected pursuant to this
37 article and Section 976.7 of the Unemployment Insurance Code.

38 (c) Notwithstanding Section 13340 of the Government Code,
39 moneys in the fund are continuously appropriated to the State
40 Department of Health Care Services for the following purposes:

1 (1) To provide payment for the nonfederal share of Medi-Cal
2 costs for covered employees.

3 (2) To increase reimbursement of providers of care ~~for covered~~
4 ~~employees.~~

5 (3) To provide reimbursement to county health systems,
6 community clinics, and other entities that provide care without
7 expectation of compensation to those Californians who do not
8 have minimum essential coverage as defined in Section 5000A of
9 Title 26 of the United States Code.

10 (d) All costs to implement this article shall be paid from moneys
11 deposited in the Employer Responsibility for Medi-Cal Trust Fund,
12 including any necessary costs incurred by the department, the
13 Employment Development Department, the Franchise Tax Board,
14 or any other state government agency.

15 14199.13. (a) The department shall match social security
16 numbers of low-income individuals covered by the Medi-Cal
17 program with information provided by the Employment
18 Development Department ~~and, if necessary, the Franchise Tax~~
19 ~~Board~~ to determine whether the individuals are covered employees
20 within the meaning of this article.

21 (b) The department shall provide information about covered
22 employees to the ~~Franchise Tax Board~~ *Employment Development*
23 *Department* in order to permit the collection of the employer
24 responsibility penalty imposed pursuant to this article.

25 (c) Any and all documents and records that result from the
26 matching of records with *or providing information to* the ~~Franchise~~
27 ~~Tax Board~~ and Employment Development Department shall be
28 subject to the confidentiality requirements of Section 14100.2.

29 (d) This section shall not be construed to supersede the
30 requirements and protections in the California Right to Financial
31 Privacy Act under Chapter 20 (commencing with Section 7460)
32 of Division 7 of Title 1 of the Government Code in obtaining
33 information in possession of any financial institution.

34 SEC. 8. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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